

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 919

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LIBLA.

Read 1st time January 17, 2018, and ordered printed.

Read 2nd time January 25, 2018, and referred to the Committee on Transportation, Infrastructure and Public Safety.

Reported from the Committee March 8, 2018, with recommendation that the bill do pass.

Taken up for Perfection March 28, 2018. Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

5772S.01P

AN ACT

To repeal sections 302.170, 302.173, 302.174, and 302.720, RSMo, and to enact in lieu thereof four new sections relating to licenses to operate motor vehicles, with existing penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 302.170, 302.173, 302.174, and 302.720, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections
3 302.170, 302.173, 302.174, and 302.720, to read as follows:

- 302.170. 1. As used in this section, the following terms shall mean:
- 2 (1) "Biometric data", shall include, but not be limited to, the following:
- 3 (a) Facial feature pattern characteristics;
- 4 (b) Voice data used for comparing live speech with a previously created
5 speech model of a person's voice;
- 6 (c) Iris recognition data containing color or texture patterns or codes;
- 7 (d) Retinal scans, reading through the pupil to measure blood vessels
8 lining the retina;
- 9 (e) Fingerprint, palm prints, hand geometry, measure of any and all
10 characteristics of biometric information, including shape and length of fingertips,
11 or recording ridge pattern or fingertip characteristics;
- 12 (f) Eye spacing;
- 13 (g) Characteristic gait or walk;
- 14 (h) DNA;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 (i) Keystroke dynamic, measuring pressure applied to key pads or other
16 digital receiving devices;

17 (2) "Commercial purposes", shall not include data used or compiled solely
18 to be used for, or obtained or compiled solely for purposes expressly allowed
19 under Missouri law or the federal Drivers Privacy Protection Act;

20 (3) "Source documents", original or certified copies, where applicable, of
21 documents presented by an applicant as required under 6 CFR Part 37 to the
22 department of revenue to apply for a driver's license or nondriver's
23 license. Source documents shall also include any documents required for the
24 issuance of driver's licenses or nondriver's licenses by the department of revenue
25 under the provisions of this chapter or accompanying regulations.

26 2. Except as provided in subsection 3 of this section and as required to
27 carry out the provisions of subsection 4 of this section, the department of revenue
28 shall not retain copies, in any format, of source documents presented by
29 individuals applying for or holding driver's licenses or nondriver's licenses or use
30 technology to capture digital images of source documents so that the images are
31 capable of being retained in electronic storage in a transferable
32 format. Documents retained as provided or required by subsections 3 and 4 of
33 this section shall be stored solely on a system not connected to the internet nor
34 to a wide area network that connects to the internet. Once stored on such
35 system, the documents and data shall be purged from any systems on which they
36 were previously stored so as to make them irretrievable.

37 3. The provisions of this section shall not apply to:

38 (1) Original application forms, which may be retained but not scanned
39 except as provided in this section;

40 (2) Test score documents issued by state highway patrol driver examiners;

41 (3) Documents demonstrating lawful presence of any applicant who is not
42 a citizen of the United States, including documents demonstrating duration of the
43 person's lawful presence in the United States;

44 (4) Any document required to be retained under federal motor carrier
45 regulations in Title 49, Code of Federal Regulations, including but not limited to
46 documents required by federal law for the issuance of a commercial driver's
47 license and a commercial driver instruction permit; [and]

48 (5) **Documents submitted by a commercial driver's license**
49 **applicant who is a Missouri resident and is active duty military or a**
50 **veteran, as "veteran" is defined in 38 U.S.C. 101, which allow for waiver**

51 **of the commercial driver's license knowledge test, skills test, or both;**
52 **and**

53 (6) Any other document at the request of and for the convenience of the
54 applicant where the applicant requests the department of revenue review
55 alternative documents as proof required for issuance of a driver's license,
56 nondriver's license, or instruction permit.

57 4. (1) To the extent not prohibited under subsection 13 of this section, the
58 department of revenue shall amend procedures for applying for a driver's license
59 or identification card in order to comply with the goals or standards of the federal
60 REAL ID Act of 2005, any rules or regulations promulgated under the authority
61 granted in such Act, or any requirements adopted by the American Association
62 of Motor Vehicle Administrators for furtherance of the Act, unless such action
63 conflicts with Missouri law.

64 (2) The department of revenue shall issue driver's licenses or
65 identification cards that are compliant with the federal REAL ID Act of 2005, as
66 amended, to all applicants for driver's licenses or identification cards unless an
67 applicant requests a driver's license or identification card that is not REAL ID
68 compliant. Except as provided in subsection 3 of this section and as required to
69 carry out the provisions of this subsection, the department of revenue shall not
70 retain the source documents of individuals applying for driver's licenses or
71 identification cards not compliant with REAL ID. Upon initial application for a
72 driver's license or identification card, the department shall inform applicants of
73 the option of being issued a REAL ID compliant driver's license or identification
74 card or a driver's license or identification card that is not compliant with REAL
75 ID. The department shall inform all applicants:

76 (a) With regard to the REAL ID compliant driver's license or identification
77 card:

78 a. Such card is valid for official state purposes and for official federal
79 purposes as outlined in the federal REAL ID Act of 2005, as amended, such as
80 domestic air travel and seeking access to military bases and most federal
81 facilities;

82 b. Electronic copies of source documents will be retained by the
83 department and destroyed after the minimum time required for retention by the
84 federal REAL ID Act of 2005, as amended;

85 c. The facial image capture will only be retained by the department if the
86 application is finished and submitted to the department; and

87 d. Any other information the department deems necessary to inform the
88 applicant about the REAL ID compliant driver's license or identification card
89 under the federal REAL ID Act;

90 (b) With regard to a driver's license or identification card that is not
91 compliant with the federal REAL ID Act:

92 a. Such card is valid for official state purposes, but it is not valid for
93 official federal purposes as outlined in the federal REAL ID Act of 2005, as
94 amended, such as domestic air travel and seeking access to military bases and
95 most federal facilities;

96 b. Source documents will be verified but no copies of such documents will
97 be retained by the department unless permitted under subsection 3 of this
98 section, except as necessary to process a request by a license or card holder or
99 applicant;

100 c. Any other information the department deems necessary to inform the
101 applicant about the driver's license or identification card.

102 5. The department of revenue shall not use, collect, obtain, share, or
103 retain biometric data nor shall the department use biometric technology to
104 produce a driver's license or nondriver's license or to uniquely identify licensees
105 or license applicants. This subsection shall not apply to digital images nor
106 licensee signatures required for the issuance of driver's licenses and nondriver's
107 licenses or to biometric data collected from employees of the department of
108 revenue, employees of the office of administration who provide information
109 technology support to the department of revenue, contracted license offices, and
110 contracted manufacturers engaged in the production, processing, or manufacture
111 of driver's licenses or identification cards in positions which require a background
112 check in order to be compliant with the federal REAL ID Act or any rules or
113 regulations promulgated under the authority of such Act. Except as otherwise
114 provided by law, applicants' source documents and Social Security numbers shall
115 not be stored in any database accessible by any other state or the federal
116 government. Such database shall contain only the data fields included on driver's
117 licenses and nondriver identification cards compliant with the federal REAL ID
118 Act, and the driving records of the individuals holding such driver's licenses and
119 nondriver identification cards.

120 6. Notwithstanding any provision of this chapter that requires an
121 applicant to provide reasonable proof of lawful presence for issuance or renewal
122 of a noncommercial driver's license, noncommercial instruction permit, or a

123 nondriver's license, an applicant shall not have his or her privacy rights violated
124 in order to obtain or renew a Missouri noncommercial driver's license,
125 noncommercial instruction permit, or a nondriver's license.

126 7. No citizen of this state shall have his or her privacy compromised by
127 the state or agents of the state. The state shall within reason protect the
128 sovereignty of the citizens the state is entrusted to protect. Any data derived
129 from a person's application shall not be sold for commercial purposes to any other
130 organization or any other state without the express permission of the applicant
131 without a court order; except such information may be shared with a law
132 enforcement agency, judge, prosecuting attorney, or officer of the court, or with
133 another state for the limited purposes set out in section 302.600, or for the
134 purposes set forth in section 32.091, or for conducting driver history checks in
135 compliance with the Motor Carrier Safety Improvement Act, 49 U.S.C. Section
136 31309. The state of Missouri shall protect the privacy of its citizens when
137 handling any written, digital, or electronic data, and shall not participate in any
138 standardized identification system using driver's and nondriver's license records
139 except as provided in this section.

140 8. Other than to process a request by a license or card holder or applicant,
141 no person shall access, distribute, or allow access to or distribution of any
142 written, digital, or electronic data collected or retained under this section without
143 the express permission of the applicant or a court order, except that such
144 information may be shared with a law enforcement agency, judge, prosecuting
145 attorney, or officer of the court, or with another state for the limited purposes set
146 out in section 302.600 or for conducting driver history checks in compliance with
147 the Motor Carrier Safety Improvement Act, 49 U.S.C. Section 31309. A first
148 violation of this subsection shall be a class A misdemeanor. A second violation
149 of this subsection shall be a class E felony. A third or subsequent violation of
150 this subsection shall be a class D felony.

151 9. Any person harmed or damaged by any violation of this section may
152 bring a civil action for damages, including noneconomic and punitive damages,
153 as well as injunctive relief, in the circuit court where that person resided at the
154 time of the violation or in the circuit court of Cole County to recover such
155 damages from the department of revenue and any persons participating in such
156 violation. Sovereign immunity shall not be available as a defense for the
157 department of revenue in such an action. In the event the plaintiff prevails on
158 any count of his or her claim, the plaintiff shall be entitled to recover reasonable

159 attorney fees from the defendants.

160 10. The department of revenue may promulgate rules necessary to
161 implement the provisions of this section. Any rule or portion of a rule, as that
162 term is defined in section 536.010, that is created under the authority delegated
163 in this section shall become effective only if it complies with and is subject to all
164 of the provisions of chapter 536 and, if applicable, section 536.028. This section
165 and chapter 536 are nonseverable and if any of the powers vested with the
166 general assembly pursuant to chapter 536 to review, to delay the effective date,
167 or to disapprove and annul a rule are subsequently held unconstitutional, then
168 the grant of rulemaking authority and any rule proposed or adopted after August
169 28, 2017, shall be invalid and void.

170 11. Biometric data, digital images, source documents, and licensee
171 signatures, or any copies of the same, required to be collected or retained to
172 comply with the requirements of the federal REAL ID Act of 2005 shall be
173 retained for no longer than the minimum duration required to maintain
174 compliance, and immediately thereafter shall be securely destroyed so as to make
175 them irretrievable.

176 12. No agency, department, or official of this state or of any political
177 subdivision thereof shall use, collect, obtain, share, or retain radio frequency
178 identification data from a REAL ID compliant driver's license or identification
179 card issued by a state, nor use the same to uniquely identify any individual.

180 13. Notwithstanding any provision of law to the contrary, the department
181 of revenue shall not amend procedures for applying for a driver's license or
182 identification card, nor promulgate any rule or regulation, for purposes of
183 complying with modifications made to the federal REAL ID Act of 2005 after
184 August 28, 2017, imposing additional requirements on applications, document
185 retention, or issuance of compliant licenses or cards, including any rules or
186 regulations promulgated under the authority granted under the federal REAL ID
187 Act of 2005, as amended, or any requirements adopted by the American
188 Association of Motor Vehicle Administrators for furtherance thereof.

189 14. If the federal REAL ID Act of 2005 is modified or repealed such that
190 driver's licenses and identification cards issued by this state that are not
191 compliant with the federal REAL ID Act of 2005 are once again sufficient for
192 federal identification purposes, the department shall not issue a driver's license
193 or identification card that complies with the federal REAL ID Act of 2005 and
194 shall securely destroy, within thirty days, any source documents retained by the

195 department for the purpose of compliance with such Act.

196 15. The provisions of this section shall expire five years after August 28,
197 2017.

302.173. 1. Any applicant for a license, who does not possess a valid
2 license issued pursuant to the laws of this state, another state, or a country
3 which has a reciprocal agreement with the state of Missouri regarding the
4 exchange of licenses pursuant to section 302.172 shall be examined as herein
5 provided. Any person who has failed to renew such person's license on or before
6 the date of its expiration or within six months thereafter must take the complete
7 examination. Any active member of the Armed Forces, their adult dependents or
8 any active member of the Peace Corps may apply for a renewal license without
9 examination of any kind, unless otherwise required by sections 302.700 to
10 302.780, provided the renewal application shows that the previous license had not
11 been suspended or revoked. Any person honorably discharged from the Armed
12 Forces of the United States who held a valid license prior to being inducted may
13 apply for a renewal license within sixty days after such person's honorable
14 discharge without submitting to any examination of such person's ability to safely
15 operate a motor vehicle over the highways of this state unless otherwise required
16 by sections 302.700 to 302.780, other than the vision test provided in section
17 302.175, unless the facts set out in the renewal application or record of
18 convictions on the expiring license, or the records of the director show that there
19 is good cause to authorize the director to require the applicant to submit to the
20 complete examination. No applicant for a renewal license shall be required to
21 submit to any examination of his or her ability to safely operate a motor vehicle
22 over the highways of this state unless otherwise required by sections 302.700 to
23 302.780 or regulations promulgated thereunder, other than a test of the
24 applicant's ability to understand highway signs regulating, warning or directing
25 traffic and the vision test provided in section 302.175, unless the facts set out in
26 the renewal application or record of convictions on the expiring license, or the
27 records of the director show that there is good cause to authorize the director to
28 require the applicant to submit to the complete examination. The examination
29 shall be made available in each county. Reasonable notice of the time and place
30 of the examination shall be given the applicant by the person or officer designated
31 to conduct it. The complete examination shall include a test of the applicant's
32 natural or corrected vision as prescribed in section 302.175, the applicant's ability
33 to understand highway signs regulating, warning or directing traffic, the

34 applicant's practical knowledge of the traffic laws of this state, and an actual
35 demonstration of ability to exercise due care in the operation of a motor vehicle
36 of the classification for which the license is sought. When an applicant for a
37 license has a license from a state which has requirements for issuance of a license
38 comparable to the Missouri requirements or a license from a country which has
39 a reciprocal agreement with the state of Missouri regarding the exchange of
40 licenses pursuant to section 302.172 and such license has not expired more than
41 six months prior to the date of application for the Missouri license, the director
42 may waive the test of the applicant's practical knowledge of the traffic laws of
43 this state, and the requirement of actual demonstration of ability to exercise due
44 care in the operation of a motor vehicle. If the director has reasonable grounds
45 to believe that an applicant is suffering from some known physical or mental
46 ailment which ordinarily would interfere with the applicant's fitness to operate
47 a motor vehicle safely upon the highways, the director may require that the
48 examination include a physical or mental examination by a licensed physician of
49 the applicant's choice, at the applicant's expense, to determine the fact. The
50 director shall prescribe regulations to ensure uniformity in the examinations and
51 in the grading thereof and shall prescribe and furnish all forms to the members
52 of the highway patrol and to other persons authorized to conduct examinations
53 as may be necessary to enable the officer or person to properly conduct the
54 examination. The records of the examination shall be forwarded to the director
55 who shall not issue any license hereunder if in the director's opinion the
56 applicant is not qualified to operate a motor vehicle safely upon the highways of
57 this state.

58 2. Beginning July 1, 2005, when the examiner has reasonable grounds to
59 believe that an individual has committed fraud or deception during the
60 examination process, the license examiner shall immediately forward to the
61 director all information relevant to any fraud or deception, including, but not
62 limited to, a statement of the examiner's grounds for belief that the person
63 committed or attempted to commit fraud or deception in the written, skills, or
64 vision examination.

65 3. The director of revenue shall delegate the power to conduct the
66 examinations required for a license or permit to any member of the highway
67 patrol or any person employed by the highway patrol. The powers delegated to
68 any examiner may be revoked at any time by the director of revenue upon notice.

69 4. Notwithstanding the requirements of subsections 1 and 3 of this

70 section, the successful completion of a motorcycle rider training course approved
71 pursuant to sections 302.133 to 302.137 shall constitute an actual demonstration
72 of the person's ability to exercise due care in the operation of a motorcycle or
73 motortricycle, and no further **practical knowledge or** driving test shall be
74 required to obtain a motorcycle or motortricycle license or endorsement. **The**
75 **motorcycle rider training course completion shall be accepted for**
76 **purposes of motorcycle license or endorsement issuance for one year**
77 **from the date of course completion.**

78 5. Notwithstanding the requirements of subsections 1 and 3 of this
79 section, the successful completion of a military motorcycle rider training course
80 that meets or exceeds the Motorcycle Safety Foundation curriculum standards by
81 an applicant who is an active member of the [U.S.] **United States** Armed Forces,
82 shall constitute an actual demonstration of the person's ability to exercise due
83 care in the operation of a motorcycle or motortricycle, and no further **practical**
84 **knowledge or** driving test shall be required to obtain a motorcycle or
85 motortricycle license or endorsement. **The military motorcycle rider**
86 **training course completion shall be accepted for purposes of**
87 **motorcycle license or endorsement issuance for one year from the date**
88 **of course completion.** The director of revenue is authorized to promulgate
89 rules and regulations for the administration and implementation of this
90 subsection including rules governing the presentment of motorcycle training
91 course completion cards from a military motorcycle rider training course or other
92 documentation showing that the applicant has successfully completed a course in
93 basic motorcycle safety instruction that meets or exceeds curriculum standards
94 established by the Motorcycle Safety Foundation or other national organization
95 whose purpose is to improve the safety of motorcyclists on the nation's streets and
96 highways. Any rule or portion of a rule, as that term is defined in section
97 536.010, that is created under the authority delegated in this section shall
98 become effective only if it complies with and is subject to all of the provisions of
99 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
100 nonseverable and if any of the powers vested with the general assembly pursuant
101 to chapter 536 to review, to delay the effective date, or to disapprove and annul
102 a rule are subsequently held unconstitutional, then the grant of rulemaking
103 authority and any rule proposed or adopted after August 28, 2012, shall be
104 invalid and void.

302.174. 1. As used in this section, the following terms mean:

2 (1) "Deaf person", any person who, because of hearing loss, is not able to
3 discriminate speech when spoken in a normal conversation tone regardless of the
4 use of amplification devices;

5 (2) ["Hearing-impaired person", any person who, because of hearing loss,
6 has a diminished capacity to discriminate speech when spoken in a normal
7 conversational tone;

8 (3) "[J88]" "DHH", a notation on a driver's license that indicates the
9 person is a deaf or [hearing-impaired] **hard of hearing** person who uses
10 alternative communication;

11 **(3) "Hard of hearing person", any person who, because of hearing**
12 **loss, has a diminished capacity to discriminate speech when spoken in**
13 **a normal conversation tone.**

14 2. Any resident of this state who is a deaf or [hearing-impaired] **hard of**
15 **hearing** person may apply to the department of revenue to have the notation
16 "[J88] DHH" placed on the person's driver's license. The department of revenue,
17 by rule, may establish the cost and criteria for placement of the "[J88] DHH"
18 notation, such as requiring an applicant to submit certain medical proof of
19 deafness or hearing [impairment] loss. **The department may also, by rule,**
20 **elect to use the phrase "deaf or hard of hearing" in lieu of the notation**
21 **"DHH" on a driver's license.**

22 3. **The Missouri commission for the deaf and hard of hearing**
23 **shall make an informational video in American Sign Language**
24 **explaining what a "DHH" notation means on a driver's license and**
25 **informing Missourians of their right to receive a license with the "DHH"**
26 **notation under this section. This video shall also be captioned in**
27 **English and converted to QR-Code which shall be posted in a**
28 **conspicuous place at every driver's license office in Missouri.**

29 4. Any rule or portion of a rule, as that term is defined in section 536.010,
30 that is created under the authority delegated in this section shall become effective
31 only if it complies with and is subject to all of the provisions of chapter 536 and,
32 if applicable, section 536.028. This section and chapter 536 are nonseverable and
33 if any of the powers vested with the general assembly pursuant to chapter 536 to
34 review, to delay the effective date or to disapprove and annul a rule are
35 subsequently held unconstitutional, then the grant of rulemaking authority and
36 any rule proposed or adopted after August 28, 2001, shall be invalid and void.

302.720. 1. Except when operating under an instruction permit as

2 described in this section, no person may drive a commercial motor vehicle unless
3 the person has been issued a commercial driver's license with applicable
4 endorsements valid for the type of vehicle being operated as specified in sections
5 302.700 to 302.780. A commercial driver's instruction permit shall allow the
6 holder of a valid license to operate a commercial motor vehicle when accompanied
7 by the holder of a commercial driver's license valid for the vehicle being operated
8 and who occupies a seat beside the individual, or reasonably near the individual
9 in the case of buses, for the purpose of giving instruction in driving the
10 commercial motor vehicle. No person may be issued a commercial driver's
11 instruction permit until he or she has passed written tests which comply with the
12 minimum federal standards. A commercial driver's instruction permit shall be
13 valid for the vehicle being operated for a period of not more than six months, and
14 shall not be issued until the permit holder has met all other requirements of
15 sections 302.700 to 302.780, except for the driving test. A permit holder, unless
16 otherwise disqualified, may be granted one six-month renewal within a one-year
17 period. The fee for such permit or renewal shall be five dollars. In the
18 alternative, a commercial driver's instruction permit shall be issued for a
19 thirty-day period to allow the holder of a valid driver's license to operate a
20 commercial motor vehicle if the applicant has completed all other requirements
21 except the driving test. The permit may be renewed for one additional thirty-day
22 period and the fee for the permit and for renewal shall be five dollars.

23 2. No person may be issued a commercial driver's license until he has
24 passed written and driving tests for the operation of a commercial motor vehicle
25 which complies with the minimum federal standards established by the Secretary
26 and has satisfied all other requirements of the Commercial Motor Vehicle Safety
27 Act of 1986 (Title XII of Pub. Law 99-570), as well as any other requirements
28 imposed by state law. All applicants for a commercial driver's license shall have
29 maintained the appropriate class of commercial driver's instruction permit issued
30 by this state or any other state for a minimum of fourteen calendar days prior to
31 the date of taking the skills test. Applicants for a hazardous materials
32 endorsement must also meet the requirements of the U.S. Patriot Act of 2001
33 (Title X of Public Law 107-56) as specified and required by regulations
34 promulgated by the Secretary. Nothing contained in this subsection shall be
35 construed as prohibiting the director from establishing alternate testing formats
36 for those who are functionally illiterate; provided, however, that any such
37 alternate test must comply with the minimum requirements of the Commercial

38 Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570) as established by
39 the Secretary.

40 (1) The written and driving tests shall be held at such times and in such
41 places as the superintendent may designate. A twenty-five dollar examination
42 fee shall be paid by the applicant upon completion of any written or driving test,
43 except the examination fee shall be waived for applicants seventy years of age or
44 older renewing a license with a school bus endorsement. The director shall
45 delegate the power to conduct the examinations required under sections 302.700
46 to 302.780 to any member of the highway patrol or any person employed by the
47 highway patrol qualified to give driving examinations. The written test shall only
48 be administered in the English language. No translators shall be allowed for
49 applicants taking the test.

50 (2) The director shall adopt and promulgate rules and regulations
51 governing the certification of third-party testers by the department of
52 revenue. Such rules and regulations shall substantially comply with the
53 requirements of 49 CFR 383, Section 383.75. A certification to conduct
54 third-party testing shall be valid for one year, and the department shall charge
55 a fee of one hundred dollars to issue or renew the certification of any third-party
56 tester.

57 (3) Beginning August 28, 2006, the director shall only issue or renew
58 third-party tester certification to community colleges established under chapter
59 178 or to private companies who own, lease, or maintain their own fleet and
60 administer in-house testing to their employees, or to school districts and their
61 agents that administer in-house testing to the school district's or agent's
62 employees. Any third-party tester who violates any of the rules and regulations
63 adopted and promulgated pursuant to this section shall be subject to having his
64 certification revoked by the department. The department shall provide written
65 notice and an opportunity for the third-party tester to be heard in substantially
66 the same manner as provided in chapter 536. If any applicant submits evidence
67 that he has successfully completed a test administered by a third-party tester, the
68 actual driving test for a commercial driver's license may then be waived.

69 (4) Every applicant for renewal of a commercial driver's license shall
70 provide such certifications and information as required by the Secretary and if
71 such person transports a hazardous material must also meet the requirements of
72 the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and
73 required by regulations promulgated by the Secretary. Such person shall be

74 required to take the written test for such endorsement. A twenty-five dollar
75 examination fee shall be paid upon completion of such tests.

76 (5) The director shall have the authority to waive the **knowledge and**
77 **driving skills [test] tests** for any qualified military applicant for a commercial
78 driver's license who is currently licensed at the time of application for a
79 commercial driver's license. The director shall impose conditions and limitations
80 to restrict the applicants from whom the department may accept alternative
81 requirements for the **knowledge and skills [test] tests** described in federal
82 regulation **49 CFR 383.71 and 49 CFR 383.77**. An applicant must certify that,
83 during the two-year period immediately preceding application for a commercial
84 driver's license, all of the following apply:

85 (a) The applicant has not had more than one license;

86 (b) The applicant has not had any license suspended, revoked, or
87 cancelled;

88 (c) The applicant has not had any convictions for any type of motor vehicle
89 for the disqualifying offenses contained in this chapter or federal rule 49 CFR
90 383.51(b);

91 (d) The applicant has not had more than one conviction for any type of
92 motor vehicle for serious traffic violations;

93 (e) The applicant has not had any conviction for a violation of state or
94 local law relating to motor vehicle traffic control, but not including any parking
95 violation, arising in connection with any traffic accident, and has no record of an
96 accident in which he or she was at fault;

97 (f) The applicant has been regularly employed within the last [ninety
98 days] **year** in a military position requiring operation of a commercial motor
99 vehicle and has operated the vehicle for at least sixty days during the two years
100 immediately preceding application for a commercial driver's license. The vehicle
101 must be representative of the commercial motor vehicle the driver applicant
102 operates or expects to operate;

103 (g) The applicant, if on active duty, must provide a notarized affidavit
104 signed by a commanding officer as proof of driving experience as indicated in
105 paragraph (f) of this subdivision;

106 (h) The applicant, if honorably discharged from military service, must
107 provide a form-DD214 or other proof of military occupational specialty;

108 (i) The applicant must meet all federal and state qualifications to operate
109 a commercial vehicle; and

110 (j) The applicant will be required to complete all applicable knowledge
111 tests, **except when the applicant provides proof of approved military**
112 **training sufficient for waiver of the knowledge and skills tests as**
113 **specified in subdivision (5) of subsection 3 of section 302.170.**

114 3. A commercial driver's license or commercial driver's instruction permit
115 may not be issued to a person while the person is disqualified from driving a
116 commercial motor vehicle, when a disqualification is pending in any state or while
117 the person's driver's license is suspended, revoked, or cancelled in any state; nor
118 may a commercial driver's license be issued unless the person first surrenders in
119 a manner prescribed by the director any commercial driver's license issued by
120 another state, which license shall be returned to the issuing state for
121 cancellation.

122 4. Beginning July 1, 2005, the director shall not issue an instruction
123 permit under this section unless the director verifies that the applicant is
124 lawfully present in the United States before accepting the application. The
125 director may, by rule or regulation, establish procedures to verify the lawful
126 presence of the applicant under this section. No rule or portion of a rule
127 promulgated pursuant to the authority of this section shall become effective
128 unless it has been promulgated pursuant to chapter 536.

129 5. Notwithstanding the provisions of this section or any other law to the
130 contrary, beginning August 28, 2008, the director of the department of revenue
131 shall certify as a third-party tester any municipality that owns, leases, or
132 maintains its own fleet that requires certain employees as a condition of
133 employment to hold a valid commercial driver's license; and that administered
134 in-house testing to such employees prior to August 28, 2006.

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